



**STATE OF WISCONSIN**  
**Department of Employee Trust Funds**  
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SECRETARY

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***CORRESPONDENCE MEMORANDUM***

**DATE:** January 20, 2011  
**TO:** Employee Trust Funds Board  
**FROM:** Marcia Blumer, Program Manager  
Employee Reimbursement Accounts Program  
Division of Insurance Services  
**SUBJECT:** Employee Reimbursement Account (ERA) Plan Amendments

**Staff recommends that the Board approve amendments to the Employee Reimbursement Accounts plan documents as described below.**

Heroes Earning Assistance and Relief Tax (HEART) Act of 2008

The HEART Act permits employers to amend their medical flexible spending account plans to allow military reservists who spend at least six months on active duty to take the remaining funds in their account as a taxable distribution rather than losing any unspent flexible spending account (FSA) balance. The provision allows those called up to service in the armed forces the flexibility of participating in the medical expense account plan while minimizing the risk of forfeiting unused contributions. The impact of this amendment on the ERA program is minimal. To date, we have had no questions or requests from military personnel who would otherwise lose contributions due to their military service.

Technical Amendments

There are three additional technical plan amendments. Two of the amendments are required as a result of the implementation of Patient Protection and Affordable Care Act (PPACA) and the third is a clarification.

- PPACA provides that contributions to a medical flexible spending account for adult children up to the age of 26 are excluded from an employee's gross income for Federal tax purposes. However, Wisconsin tax law defining dependent status does not conform to Federal tax law. Until Wisconsin adopts the definition of dependent

Reviewed and approved by Robert J. Conlin, Deputy Secretary.

  
Signature \_\_\_\_\_ Date 2/14/11

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status contained in PPACA, the ERA program must follow Federal tax law that was in effect prior to passage of the Act. Therefore, to qualify for the exclusion from gross income for a medical FSA under the Wisconsin ERA program, a child under age 27 must qualify as a dependent for income tax purposes as defined under IRS Code 152. The amendment acknowledges the discrepancy between State and Federal tax law and allows for the plan to conform to the PPACA provisions without further amendment should Wisconsin's tax law change in the future.

- PPACA established a new uniform standard for medical expenses that are eligible for reimbursement through a medical FSA. Effective January 1, 2011, expenses for most over-the-counter medicine or drugs will be reimbursable only if they are purchased with a prescription. The amendment acknowledges the change in reimbursable expenses.
- The definition of SPD (summary plan document) is defined to mean the annual ERA enrollment booklet. This is a technical correction that was omitted in the ERA plan document.

Staff will be available at the Board meeting to answer questions you may have.